

REMARKS

Claims 1, 8 and 12-20 are pending in the application. By this response claims 1, 8 and 12-20 are amended, claims 10, and 21-32 are canceled. In view of the foregoing amendments and the following remarks, Applicant respectfully requests reconsideration and allowance of the application.

CLAIMS REJECTED UNDER § 102

Claims 1, 8 and 12-16 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,642,343 to Toda et al. (Toda). The Applicant traverses.

Concerning claims 1, 14, 15 and 16, these claims have been amended to recite, in part:

wherein in a case of reproducing the marks having the test information, a target condition of a track following operation of the position control means is unchanged in a first reproduction in comparison with a time when the test information is recorded and changed in a second reproduction in comparison with a time when the test information is recorded

Similarly concerning claim 12, this claim has been amended to recite, in part:

reproducing, as a first reproduction, the test information without a change of a target track operating condition of the position control from a time when the test information is recorded;

reproducing, as a second reproduction, the test information with a change of the target track following condition of the position control from a time when the test information is recorded;

The limitation is not taught, disclosed or suggested by Toda. The Office Action in the Response to Remarks cites Toda, Fig. 5, and states that, “in order to obtain the signal V1 and V2, the tracking servo control moves the optical head *along the recording track* so that a string of recording marks can be read”, and the Office Action also cites Toda, Figs. 1 and 2, as disclosing test recording signals that are recorded and then reproduced without involving a track jumping operation. The Applicant interprets this to mean that the Office Action alleges that “a change in control operation of the position control means between the first reproduction and the second reproduction” is a track following operation of a tracking servo, accompanied by the rotation of

the recording medium. Applicant asserts, however, that since the optical head obviously has to be positioned over a mark to read it and since the Office Action's interpretation of control operation would qualify simply maintaining the optical head over a track a 'control operation', the Office Action has misinterpreted the previous claim limitations and the claims have been amended for clarity.

The claim limitations, in the instant application, require the target track of the reading means to remain constant from the beginning of a test write period until the end of a first reproduction comparison period. However, for a second reproduction comparison the limitations require the target track be changed in the interim between the write and the reproduction comparison periods. Toda makes no mention of whether or not the target track is changed during a trial. Toda merely discusses a trial procedure in which a test pattern is written into a track and subsequently reproduced and evaluated. (Col. 23, line 37-Col. 24, line 10.) The Applicant also respectfully asserts that because tracks are generally formed in a spiral shape, a track jumping operation would be necessary at least once per cycle if the same track is to be written into and/or reproduced. Thus the Office Action's assertion that Toda, at Figs. 1 and 2, discloses signals that are recorded and then reproduced without involving a track jumping operation is inconceivable.

Furthermore claims 1, 12, 14, 15 and 16 all refer to controlling recording condition in accordance with the result of the evaluation or reproduction signal amplitudes. The limitation is not disclosed by Toda. The Office Action cites Figs. 1 and 2; steps 2023, 2026 and 2027 as disclosing the limitation. However, steps 2023, 2026 and 2027 of Toda are limited to the evaluation period. Toda does not disclose a means to control the recording condition outside of the evaluation period in accordance with the results obtained by the evaluation, as do the instant claims.

For at least the foregoing reasons claims 1, 12, 14, 15 and 16 define over Toda. Claims 17-20 depend from claim 1. Therefore as further limitations on independent claim 1, claims 17-20 also define patentable subject matter. Accordingly, the Applicant requests that the Examiner withdraw the instant rejection.

Concerning claim 8, this claim has been amended to recite, in part:

means for vibrating an optical spot in a direction perpendicular to a track
scanning direction and in parallel with a recording medium

The limitation is not disclosed by Toda. Toda merely discusses moving the lens in an upward and downward direction. Toda is not providing a means for vibrating an optical spot in a direction perpendicular to the scanning direction. Thus, for at least the foregoing reason and because claim 8 also depends from claim 1 and provides a further limitation to independent claim 1, claim 8 also defines patentable subject matter. Accordingly the Applicant requests that the Examiner withdraw the instant rejection.

OBJECTED TO CLAIMS

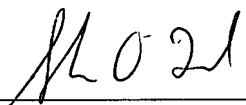
Claims 17-32 were objected to as being dependent upon a rejected base claim. Claims 1 and 17-20 have been amended, and claims 21-32 have been canceled, making the objection to claims 21-32 moot. It is believed that the objections to claims 17-20 have been overcome by the amendments and the Applicant respectfully requests withdrawal of the objections.

CONCLUSION

Applicant respectfully submits that the present application is now in condition for allowance. The Examiner is invited to contact Applicant's representative to discuss any issue that would expedite allowance of this application.

The Commissioner is authorized to charge all required fees, fees under § 1.17, or all required extension of time fees, or to credit any overpayment to Deposit Account No. 11-0600 (Kenyon & Kenyon LLP). Respectfully submitted,

Date: August 16, 2007



Shawn W. O'Dowd
Reg. No. 34,687

KENYON & KENYON LLP
1500 K Street, N.W., Suite 700
Washington, DC 20005
Tel: (202) 420-4200
Fax: (202) 420-4201